

former employee's taxes, salary, benefits, possible Federal employment, rights as a former employee, or the application of conflict-of-interest rules to something the former employee proposes to do;

(3) Any appearance on the former employee's own behalf in any litigation or administrative proceeding; or

(4) Any presentation of scientific or technical information (at a site visit, for example) or any other communication of scientific or technical information on work being proposed or conducted.

(e) As soon as his or her NSF employment ceases, a former NSF employee (including any former special Government employee described in paragraph (a) of this section) may again be listed as principal investigator on an NSF award, may be listed as principal investigator in any proposal or award, and may sign a proposal as principal investigator. However, the former employee and the grantee institution shall formally designate, subject to NSF approval, a "substitute negotiator" who, though not principally responsible for the work, will represent the former employee and the institution in dealings with NSF officials on any proposal or project for as long as the former employee would be barred from representational contacts with NSF by paragraph (a) of this section or by statute.

**§ 680.13 Purposes for "substitute" requirements.**

Appointment of a "substitute principal investigator" or "substitute negotiator" ensures against unthinking violation of the restrictions on dealings with NSF officials. It serves this purpose by flagging proposals or awards affected by the restrictions and by identifying someone else with whom NSF officials can properly discuss them or negotiate over them. Designation of a substitute principal investigator while an employee is at NSF has two additional functions: it identifies another person to be responsible for the work and equipment, and it reminds all concerned that during an employee's NSF service his or her attentions should focus on NSF duties.

**Subpart B—Statutory Exemptions**

**§ 680.20 Exemptions under 18 U.S.C. 208(b).**

(a) The Foundation exempts the interests described in the remainder of this section from the operation of section 208(a) and from case-by-case formal determinations under section 208(b)(1) of title 18, United States Code.

(b) *Minor interests.* The following financial interests are too inconsequential to affect the integrity of an employee's services to the Government:

(1) Noncorporate bonds;

(2) Shares in a well-diversified money market or mutual fund;

(3) Stocks, bonds, or other securities of a corporation listed on the New York or American Stock Exchange if the aggregate market value of all the securities you hold in that corporation does not exceed \$1,000;

(4) Vested pension rights to which no further contributions are being made by your former employer.

(c) *Indirect interests.* An NSF employee may be a stockholder, partner, employee, officer, or director of an institution, such as a mutual fund, that owns a financial interest in a second institution. If the owning institution's financial interest consists of securities or other evidences of debt of the second institution that amount to:

(1) Less than 5 percent of the total portfolio of investments of the owning institution,

(2) Less than 5 percent of the total outstanding amounts of the same classes of securities of the second institution, and

(3) Less than would be needed to obtain effective control of the second institution,

then the interest is too remote and inconsequential to affect the integrity of the employee's services to the Government.

(d) *Policy determinations.* Where a general policy determination of the Government might constitute a "particular matter" under 18 U.S.C. 208(a) and might affect the home institution of an NSF officer or employee, but only in the same manner as all similar institutions, the officer or employee may participate in that determination.

## National Science Foundation

## § 689.2

(e) *Support services for National Science Board tasks and responsibilities.* A member of the National Science Board may need professional, clerical, and administrative services to support the member's personal efforts to carry out Board tasks and responsibilities. With the approval of the Director and the Chairman of the National Science Board and in accordance with other laws and regulations, the NSF may contract with the home institution of the member to provide such services. The institution may receive reimbursement of all allowable costs, but no profit or fee. In such circumstances any financial interests the institution might have are normally too inconsequential to affect the integrity of the services provided by the Board member to the Government.

[47 FR 32131, July 26, 1982. Redesignated at 61 FR 59839, Nov. 25, 1996]

### PART 689—RESEARCH MISCONDUCT

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AUTHORITY: 42 U.S.C. 1870(a).

SOURCE: 67 FR 11937, Mar. 18, 2002, unless otherwise noted.

#### § 689.1 Definitions.

The following definitions apply to this part:

(a) *Research misconduct* means fabrication, falsification, or plagiarism in proposing or performing research funded by NSF, reviewing research proposals submitted to NSF, or in reporting research results funded by NSF.

(1) *Fabrication* means making up data or results and recording or reporting them.

(2) *Falsification* means manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not

accurately represented in the research record.

(3) *Plagiarism* means the appropriation of another person's ideas, processes, results or words without giving appropriate credit.

(4) *Research*, for purposes of paragraph (a) of this section, includes proposals submitted to NSF in all fields of science, engineering, mathematics, and education and results from such proposals.

(b) *Research misconduct* does not include honest error or differences of opinion.

#### § 689.2 General policies and responsibilities.

(a) NSF will take appropriate action against individuals or institutions upon a finding that research misconduct has occurred. Possible actions are described in § 689.3. NSF may also take interim action during an investigation, as described in § 689.8.

(b) NSF will find research misconduct only after careful inquiry and investigation by an awardee institution, by another Federal agency, or by NSF. An "inquiry" consists of preliminary information-gathering and preliminary fact-finding to determine whether an allegation or apparent instance of research misconduct has substance and if an investigation is warranted. An investigation must be undertaken if the inquiry determines the allegation or apparent instance of research misconduct has substance. An "investigation" is a formal development, examination and evaluation of a factual record to determine whether research misconduct has taken place, to assess its extent and consequences, and to evaluate appropriate action.

(c) A finding of research misconduct requires that—

(1) There be a significant departure from accepted practices of the relevant research community; and

(2) The research misconduct be committed intentionally, or knowingly, or recklessly; and

(3) The allegation be proven by a preponderance of evidence.

(d) Before NSF makes any final finding of research misconduct or takes any final action on such a finding, NSF